



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.436 of 2011

and

M.P.(MD)No.1 of 2011

The Managing Director,
TNSTC,
Kumbakonam.

... Appellant/Respondent

Vs.

Rengammal (DIED)
Subramanian

... Respondent/Petitioner

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree passed in M.C.O.P.No.2045 of 2003 dated 30th day of April, 2008 on the file of the Motor Accident Claims Tribunal/ Additional District Court-cum-Fast Track Court No.II, Trichirappalli.

For Appellant :Mr.M.Prakash

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Transport Corporation against the award passed in M.C.O.P.No.2045 of 2003, dated 30.04.2008 on the file of the Motor Accident Claims Tribunal/ Additional District Court-cum-Fast Track Court No.II, Trichirappalli.

2. It is a case of fatal accident, which took place on 29.07.2003 at about 22.15 hours at Trichy-Tanjore Main Road, Near Government Sanitory Hospital, Thuvakudi.

3. It is the case of the claimant before the Tribunal that on the date of accident, when the deceased by name Gurunathan was walking on the left side of the road, the Transport Corporation bus bearing Registration No.TN 49/N 1151 was driven by its driver in a rash and negligent manner and dashed against the deceased and caused the accident and in the said accident, the deceased sustained multiple injuries and died on the spot.

4. The claimant filed an application in M.C.O.P.No.2045 of 2003 on the file of the Motor Accident Claims Tribunal/ Additional District Court-cum-Fast Track Court No.II, Trichirappalli, seeking compensation.



5. Before the Tribunal, the claimant examined two witnesses as P.Ws.1 and 2 and marked four documents and Ex.P1 to P4. The appellant/Transport Corporation did not let in any oral or documentary evidence before the Tribunal.

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6.The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also appreciating the evidence on record held that the accident occurred due to the rash and negligent driving of the driver of the appellant/Transport Corporation and therefore, directed the appellant to pay compensation of Rs.1,10,000/-.

7. Against which, the appellant/Transport Corporation has filed this present appeal challenging the liability as well as quantum.

8. Though the appeal has been filed by the appellant/Transport Corporation challenging the liability as well as the Quantum, at the time of argument, the learned counsel for the appellant restricts his argument with regard to quantum.

9. The learned counsel for the appellant submitted that the Tribunal erred in fixing the monthly income instead of annual notional income of Rs.15,000/- as per II Schedule of the Motor Vehicles Act for a non-earning person and therefore, the compensation awarded by the Tribunal is on the higher side and therefore, the same is to be reduced.

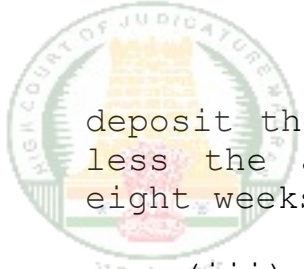
10.Heard the submissions made by the learned counsel appearing for the appellant/Transport Corporation and perused the materials available on record.

11.Perusal of the award shows that after considering the oral and documentary evidences and also considering the age of the deceased and the avocation of the deceased, the Tribunal has fixed the monthly loss of income as Rs.1,500/- after deducting 1/3rd amount towards personal expenses. This Court is of the view that the compensation awarded by the Tribunal is a just and reasonable compensation and the same does not warrant interference at the hands of this Court. If the claimant would have filed an appeal, it would have been otherwise.

12. In the result,

(i) This Civil Miscellaneous Appeal is dismissed and the award passed in M.C.O.P.No.2045 of 2003 dated 30.04.2008 on the file of the Motor Accident Claims Tribunal/ Additional District Court-cum-
<https://hcds.ebarackin.com> No.II, Trichirappalli, is confirmed.

(ii) The appellant/Transport Corporation is directed to



deposit the entire award amount with accrued interests and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment.

(iii) On such deposit being made, the claimant is permitted to withdraw the entire award amount with accrued interests and costs, without filing any formal application before the Tribunal. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To,

1. The Motor Accident Claims Tribunal/
Additional District Court-cum-Fast Track Court No.II,
Trichirappalli.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 cc TO Mr.M.Prakash , Advocate in SR No. 77463

pm

AE/KK/SAR3/12.10.2017/3P/4C

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08.09.2017**